Supreme Court, U.S.
FILED
MAR 3 - 2006
OFFICE OF THE CLERK

No. 05-1123

In The

Supreme Court of the United States

ISRAEL WEINSTOCK,

Petitioner,

v.

COMMITTEE ON ADMISSIONS AND GRIEVANCES OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT; GRIEVANCE COMMITTEE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Second Circuit

PETITION FOR WRIT OF CERTIORARI

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I. QUESTIONS PRESENTED

(1) In federal reciprocal disciplinary proceedings, does due process require findings of professional misconduct supported by clear and convincing evidence, thereby prohibiting federal reciprocal disbarment based on an underlying antecedent New York disbarment order rendered on the mere preponderance of the evidence standard applied by New York disciplinary tribunals which, expressly rejecting *Addington v. Texas*, 441 U.S. 418 (1979), treat a law license as a mere property interest?

(2) Does the mere preponderance of the evidence standard, required to be applied by New York disciplinary tribunals by the New York Court of Appeals and later applied in federal attorney reciprocal disciplinary proceedings, constitute an unconstitutional infirmity of proof of professional misconduct resulting in a grave injustice for want of fundamentally fair procedures and a full and fair opportunity to be heard under *Selling v. Radford*, 243 U.S. 46 (1917)?

(3) Given the lower standard of proof mandated by the New York Court of Appeals, does the absence of uniformity among the several states and the federal courts located in those states regarding the applicable standard of proof in federal reciprocal disbarment proceedings violate Article IV, Section 2 of the Constitution, which provides that the citizens of each state shall be entitled to all privileges and immunities of citizens of the several states?

(4) Do members of the New York bar, as well as members of the bars of Alaska, Arkansas, Kentucky, Maine, Michigan, Missouri and Texas, enjoy the equal

I. QUESTIONS PRESENTED – Continued

protection under the Fifth Amendment regarding the higher standard of proof to be applied in federal reciprocal disbarment proceedings as enjoyed by members of the bar in all the other several states and federal courts within those states that require clear and convincing evidence of professional misconduct?

II. PARTIES

Petitioner Israel Weinstock is an adult citizen and resident of Queens, New York and was admitted to practice as an attorney in the State of New York under he was disbarred on April 8, 2002 by th New York Supreme Court, Appellate Division, Second Department. In 2006 the United States Court of Appeals for the Second Circuit and the United States District Court for the Southern District of New York entered final orders of federal reciprocal disbarment based on Petitioner's 2002 disbarment in New York. The Committee on Admissions and Grievances of the United States Court of Appeals for the Second Circuit and the Committee on Grievances for the United States District for the Southern District of New York are the real party respondents in interest.

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